United Nations S/2006/254

Security Council

Distr.: General
21 April 2006

Original: English

Letter dated 20 April 2006 from the Acting Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached fifth report from Romania submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its attachment to be circulated as a document of the Security Council.

(*Signed*) Adamantios Th. **Vassilakis**
Acting Chairman
Security Council Committee established pursuant to
resolution 1373 (2001)
concerning counter-terrorism

06-32356 (E) 160506

Annex

Letter dated 18 April 2006 from the Permanent Representative of Romania to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

I have the honour to send you enclosed herewith the answer of the Government of Romania to the specific questions of the Counter-Terrorism Committee, as set out in its letter dated 2 December 2005. Electronic copies of all documents are also submitted for your convenience.

(*Signed*) Mihnea **Motoc**
Ambassador

Enclosure*

Reply to the clarifications requested by the Counter-Terrorism Committee regarding Romania's fourth report on the implementation of Security Council resolution 1373 (2001)

1. **Implementation measures**

1.1 The Committee notes that Romania has adopted a new Criminal Code and would be grateful to receive a copy of this instrument, particularly Title IV on crimes and offences of terrorism.

The entry into force of the new **Criminal Code**, adopted as **Law No. 301/2004**, was delayed, at the request of various actors involved in the judicial process (judges, lawyers, prosecutors), in order to sort out the technical discrepancies with the **Procedural Criminal Code**.
An English version of the new Criminal Code will be made available to the Committee **upon its entry into force.**

1.2 On page three of its fourth report, Romania informed the Committee that on 30 November 2004, its Government had approved a draft law amending and supplementing Law No. 656/2002 for preventing and sanctioning money laundering. Has this draft law has been adopted? If so, the Committee would appreciate a copy of it.

The English version of the **Law No. 656/2002** (as subsequently amended by the Laws No 39/2003; 230/2005 and 36/2006) is herewith enclosed in **Annex 1.**

1.3 The Committee regards the criminalization of terrorist acts and their financing and effective protection of the financial system from use by terrorists as areas of priority for all States in implementing resolution 1373 (2001). From the information provided to the Committee thus far, it appears that Romania does not have specific legislation to:

- *Make funds that are derived from legitimate sources and used, or intended to be used, in the furtherance of terrorist activities subject to the freezing authority. The Committee would like to know whether Romania has any legislation pertaining to the freezing of funds of legal origin;*
- *Authorize the freezing of funds "without delay", pursuant to paragraph 1 (c) of resolution 1373 (2001);*
- *Extend the obligation of reporting suspicious transactions to include financial intermediaries.*

- **Art. 36** of **Law No. 535/2004** on preventing and combating terrorism, which defines the terrorism financing offence, does not make any distinction between

* Attachments are on file with the Secretariat and are available for consultation.

the legal or illegal origin of goods or values put at the disposal of a terrorist entity or collected in order to finance the terrorist acts. Regardless the origin of goods or funds involved in terrorist financing, these can be confiscated, according to **Art. 36** of **Law No. 535/2004** and **Art. 25** of **Law No. 656/2002**.

- According to **Art. 23** of **Law No. 535/2002**, the assets belonging to individuals mentioned in the **annex** to the **Government Decision No. 159/2001** are frozen, any transfer being prohibited. **Government Decision No. 159/2001** is the legal domestic instrument providing the list of persons designated by the UN Committee for the implementation of the UN Security Council resolutions on combating terrorism;
- By **Law No. 656/2002**, and the subsequent amending legal framework, it is compulsory for all financial intermediaries to report the suspicious transactions of money laundering and terrorism financing.

1.4 *The Committee takes note of Law No. 535/2004 on the prevention and fighting against terrorism, which criminalizes various forms of support for terrorism. Does Romania have legislation criminalizing the commission of terrorist acts in foreign countries by citizens of Romania?*

The **Romanian Criminal Code**, in its 2nd section, Art 11, provides that "The criminal law applies to the offences committed outside the country by a Romanian citizen or by a person without citizenship who has the residence in the country, if the offence is provided also as an offence by the criminal law of the country where it was committed."

1.5 *The Committee notes that there is no specific regulation of charitable, religious and cultural organizations and suggests that Romania should consider enacting regulatory legislation which would, inter alia, prevent the funds collected by such organizations from being used for terrorist purposes. Are any such measures being contemplated?*

Article 8, letter j^1 of **Law No. 656/2002** specifically mentions that, regardless their nature (charitable, cultural, religious, etc.), the entities, including the associations and foundations, have the obligation to report accordingly.

1.6 *The Committee would like to know what steps Romania plans to take to regulate alternative currency transfer agencies to ensure that they are not used as a means of transferring funds for terrorist purposes.*

Money remitters' agencies have been introduced in the category of reporting entities, at **Art. 8**, **letter g** of **Law No. 656/2002** on preventing and sanctioning money laundering and establishing measures to prevent and combat the financing of terrorist acts.

1.7 *The Committee notes that Romania is a party to the international counter-terrorism instruments and would appreciate a progress report on the incorporation of their provisions into domestic law.*

An overview that includes the list of international instruments that Romania has incorporated in the domestic law is provided in Annex 2 to this document.

Additionally, please find herewith relevant information concerning the implementation of the domestic legal framework by the National Office for Prevention and Combating Money Laundering of Romania level (NOPCML):
Bearing in mind that money laundering is one of the main sources for financing terrorist acts, it turned out to be necessary to harmonize the domestic legislation with the relevant international provisions and to strengthen the NOPCML role, as defined by **Law No. 535/2004**.
In this respect, the **Law No. 230/2005** brought amendments to the **Law No. 656/2002** on preventing and sanctioning money laundering, as following, by:

- including among the Office's functions the capacity to prevent and to combat financing of terrorism;
- providing the Office with the capacity to suspend the operations suspected of financing of terrorism;
- informing promptly the Romanian Intelligence Service on operations suspected of financing of terrorism;
- increasing from 48 hours to 72 hours the suspension period of performing operations suspected of financing of terrorism, and increasing from 3 to 4 working days the period for protracting the suspension of operations suspected of money laundering;
- expanding the categories of reporting entities with reporting obligations, accordingly with the FATF-GAFI recommendations;
- increasing the threshold of contravention sanctions with inflation rate;
- configuring the procedural system of special seizure and of investigative methods that could be used by the Prosecutor's units with techniques related to interception of communications, supervision of the bank accounts and using of undercover agents.

In 2005, a system for protecting classified information, according to the relevant legal provisions, was implemented at the Office's level.
A position of adviser on inter-institutional cooperation and combating corruption and financing of terrorism with the Office's President was created and already filled by an expert.
The Office has prepared an Action Plan for terrorist alert situations.

1.8 The Committee would appreciate if Romania would share with it any assessments or evaluations carried out by international or regional bodies, including those related to operational measures.

On 25 October 2005, an EU expert team visited Romania, during a peer review mission, for an evaluation of the national system for combating terrorism. The EU team had a positive assessment of the implementation of good practices in this field in our country.

2. Implementing resolution 1624 (2005)

Paragraph 1

2.1 *What measures does Romania have in place to prohibit by law and to prevent incitement to commit a terrorist act or acts? What further steps, if any, are under consideration?*

The measures of prevention and sanctioning terrorism financing are provided by **Laws No. 656/2002** and **No. 535/2004** (chapter 3 - section 1 and 2), as well as by the **Criminal Code**.
By **Law No. 508/2004**, a specialised division on combating terrorism and organized crime was set up with the Public Ministry, under the jurisdiction of the Prosecutor's office of the Supreme Court of Romania.

2.2 *What measures does Romania take to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts?*

Annex 3 to this document provides the **revised English version** of **Government Decision No. 194/2002,** on the regime of aliens in Romania. **Art 8** of this **GD No. 194/2002** contains provisions concerning the denial of safe haven to any persons with respect to whom there are serious reasons for considering that they have been guilty of incitement to terrorist activities.
In the **Annex 4** to this document, it is provided the **revised English version** of **Government Decision No. 102/2000,** on the status and regime of refugees in Romania, with specific provisions on the same issue **(Art.4).**
In addition, **Art. 44** of **Law No. 535/2004** reads as following:

"Art. 44. – (1) Against foreign citizens or stateless persons about whom there are solid data or clues that they intend to commit terrorist acts or to favour terrorism, a measure shall be applied of declaring them to be *personae non gratae* for Romania or of interrupting their right of abode in our country, if the measure of prohibition to leave our country was not ordained against them, according to the Law on the legal treatment of foreigners in Romania.
(2) Para. (1) shall apply accordingly also to applicants for asylum, to refugees and to victims of armed conflicts whose statute and legal treatment are regulated by special laws."

Paragraph 2

2.3. *How does Romania cooperate with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering their territory, including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures?*

The National Customs Authority concluded bilateral agreements of cooperation and reciprocal administrative assistance, in order to ensure the correct implementation of customs legislation, especially by preventing, investigating and combating the infringements in the customs activity. At the same time, the Ministry of Administration and Interior of Romania is in charge with the assurance of the security of the borders.

Paragraph 3

2.4 *What international efforts is Romania participating in or considering participating in/initiating in order to enhance dialogue and broaden understanding among civilizations in an effort to prevent the indiscriminate targeting of different religions and cultures?*

Romania supports the "Alliance of Civilisations", which became a UN initiative and should become a global project. We hope that the High Level Group will try to create a proper dialogue in order to improve respect among different cultures, beliefs and civilisations and to involve the UN member states in that project.
Romania believes that international fora should host constructive exchange of views on all the aspects of the dialogue between civilisations. We hope that the European Year of Intercultural Dialogue in 2008 will provide good opportunities for improving that dialogue.
At regional level, Romania offered to host in 2007 a follow-up conference to the Cordoba OSCE Conference.

3. Assistance and consultation

At the beginning of this year, the **Romanian National Office for Prevention and Combating Money Laundering** submitted to the US authorities a request for technical assistance. The draft assistance programme awaits a decision for financial aid from the US Government.
The **National Office for Prevention and Combating Money Laundering of Romania** is also interested in a cooperation with the US Financial Crimes Enforcement Network (FINCEN), and extended an invitation for an expert mission of FINCEN to visit Romania during the first half of 2006.
Together with the National Institute for the Magistrates and the United Nations Office on Drugs and Crime (UNODC), the Romanian Ministry of Justice organized a national training seminar for judges and prosecutors, establishing also a plan of cooperation between the Ministry of Justice and UNODC (Bucharest, 19-21 October 2005).
On 26-28 June, 2006, together with UNODC, Romania will co-host a regional seminar on international cooperation on combating terrorism, corruption and trans-national organized crime, as a follow up to the Zagreb Declaration on this matter. Experts from European Commission, Europol, Eurojust, Interpol, SECI, and the Initiative against Organized Crime of the Stability Pact are invited to take part to this event, as observers.